

OPINION NO. 259

A deputy director of a state department had in his position and in his own right become acquainted with the problems of a particular technical area. He advised us that he was being considered for appointment to a federal board concerned with matters coming within his area of expertise, and he wished to know if appointment to and service on this board would pose any problem under HRS ch. 84.

The board had been established by act of Congress to make recommendations in this particular technical area. At the time of this employee's request, the board had no regulatory powers, though the employee indicated that it was conceivable that Congress might in the future invest the board with such powers. As a member of the board, he would be paid for his services on a daily basis at a rate that would be in accord with a federal GS-18 salary rating. He anticipated that in the early months of his membership on the board he might be required to be in Washington, D.C. for a week or two at a time and that after this initial period his service would be on a less regular basis and for shorter periods. It was his understanding that he would be paid for all meeting days, as well as those work days he lost during travel between Hawaii and Washington, D.C. where meetings of the board would be held.

We believed that HRS §§84-14(b) and 84-13(3) had application to his appointment to the board. HRS §84-14(b) prohibits the acquisition of a financial interest in an undertaking which an employee has reason to believe may be directly involved in action he will be required to take in his official state position. Because he would be paid for his services, his membership on the board would constitute a financial interest. However, in view of the board's mandate, we could see no likelihood that he would be required to take official action in his state capacity involving any aspect of this board's business or his membership on it. Accordingly, we saw no reason under this section why he should not accept this position.

He also indicated and it appeared to us, that his membership on the board would be a personal honor to him and not a function of his state employment even though the State might incidentally reap some benefits from his service on the board. Accordingly, we advised him that should he be appointed, HRS §84-13(3) would require that he avoid using state time, equipment, or facilities for matters relating to his service on the board. He stated that the head of his department had approved his taking administrative leave or vacation time when he was required to be on board business. We believed that this approach would be in accord with the statutory requirement.

We stated that should his duties to the board change in the future such that a conflict might arise between his state and federal responsibilities, he should request an additional opinion from us.

We commended him for bringing this matter to our attention, and we wished him success in his tenure on the board.

Dated: Honolulu, Hawaii, July 13, 1976.

STATE ETHICS COMMISSION
Paul C.T. Loo, Vice Chairman
Gary B.K.T. Lee, Commissioner
I.B. Peterson, Commissioner

Note: Chairman Audrey P. Bliss and Commissioner Dorothy K. Ching were excused from the meeting at which this opinion was considered.